

BEFORE THE  
POSTAL RATE COMMISSION  
WASHINGTON, D.C. 20268-0001

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POSTAL RATE COMMISSION  
OFFICE OF THE SECRETARY

EXPERIMENTAL PRESORTED PRIORITY  
MAIL RATE CATEGORIES, 2001

Docket No. MC2001-1

OPPOSITION OF THE UNITED STATES POSTAL SERVICE  
TO MOTION OF UNITED PARCEL SERVICE TO DENY EXPERIMENTAL  
TREATMENT FOR PROPOSED PRESORT RATE CATEGORIES  
(April 10, 2001)

I. INTRODUCTION

On April 3, 2001, United Parcel Service (UPS) filed a motion seeking a denial of the Postal Service's March 7, 2001, request that the Commission apply its rules governing experimental changes (39 C.F.R. § 3001.67 - 67d) to the Priority Mail presort classifications and rates proposed in this proceeding. The United States Postal Service has requested that the Commission establish, on an experimental basis, three new groupings of mail, for the purpose of assigning them specific rates and methods of handling.<sup>1</sup> The proposed experiment is restricted to mailings of at least 300 pieces or 500 pounds of Priority Mail. Each piece within a qualified mailing must be properly marked and meet the machinability, addressing, and other preparation requirements specified by the Postal Service. The three proposed experimental classifications are distinguished by the depth of mailer presortation required for each: one rate category is proposed for pieces presorted to the Area Distribution Center (ADC) level; a second is proposed for pieces presorted to the 3-digit ZIP Code prefix level; the third rate

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<sup>1</sup> See, *National Retired Teachers Association v. United States Postal Service*, 430 F.Supp. 141, 147 (D.D.C. 1977), *aff'd*, 598 F. 2d 1360 (D.C. Cir. 1979), quoted in *United Parcel Service v. United States Postal Service*, 604 F. 2d 1370, 1376 (3d. Cir. 1979).

category is for pieces presorted to the 5-digit ZIP Code level. Successively larger experimental rate discounts are proposed on the basis of depth of presortation performed by the mailer.<sup>2</sup>

Postal Service witness Scherer proposes that approximately 10 mailers participate in Phase I of the experiment and that broader participation be permitted thereafter, taking into consideration such factors as the Postal Service's ability to manage an expansion and the degree of qualified mailer interest. USPS-T-1, at 3-4. Witness Scherer estimates that the net revenue impact will be approximately \$2 million. *Id.* at 15. Data will be collected during the experiment to identify postal mail processing operations avoided as a result of mailer presortation and to measure the extent of any postal mail processing cost avoidance. Quantitative market research also will be conducted for the purpose of developing an estimate of potential mailer interest in the permanent establishment of the presort classifications being tested in the experiment, as well as rates that might be associated with such permanent classifications.<sup>3</sup> Assuming approval of the proposed experiment, the operational and cost data collected and the market research performed during the experiment are expected to provide the basis for a determination by the Postal Service concerning whether to pursue the establishment of permanent Priority Mail presort classifications and rates under 39 U.S.C. §§ 3622 and 3623.

Presently, there exist no Priority Mail classifications or rate distinctions based on mailer presortation. A Priority Mail presort classification and discount were established

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<sup>2</sup> See, Docket No. MC2001-1, Direct Testimony of Thomas Scherer On Behalf of United States Postal Service; USPS-T-1, at 2-3.

<sup>3</sup> See, Docket No. MC2001-1, Direct Testimony of Jonathan Levine On Behalf of United States Postal Service; USPS-T-2, Attachment A.

as a result of Docket No. R90-1, but discontinued as a result of Docket No. R97-1.<sup>4</sup> With mail processing and operational circumstances different than those which existed when the earlier Priority Mail presort discount was terminated, the Postal Service now seeks to conduct an experiment to determine if a different, more flexible approach to Priority Mail presortation can bear fruit. For a review of the principal objectives of the proposed experiment, the Commission's attention is invited to USPS-T-1 filed in this docket, page 4 (line 18) to page 6 (line 12).

The rules governing the consideration of requests for experimental treatment of postal rate and classification proposals are codified in 39 C.F.R. §§ 3001.67 - 67d. Before addressing the application of the four threshold criteria of Rule 67(b), the Postal Service will first respond to UPS's characterizations of the purpose of the proposed experiment.

## II. UPS's CHARACTERIZATIONS OF THE POSTAL SERVICE'S MOTIVES LACK FOUNDATION

UPS argues that the Postal Service's experimental request is:

an effort to shortcut the normal procedures for evaluating the propriety and magnitude of Priority Mail work sharing discounts in order to put the proposed discounts in place as soon as possible and thereby give rate relief to certain large mailers.

UPS Motion at 3. Continuing at page 4, UPS argues that, "under the guise of an . . . experiment . . .," the Postal Service is seeking to "expedite the adoption of rate decreases in order to 'undo' for some mailers a recent rate increase recommended by

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<sup>4</sup> Each piece of Priority Mail which was sorted either to the 5-digit ZIP Code, 3-digit Zip Code prefix, or state sack or bundle (containing at least 6 pieces) level within a mailing of 300 or more pieces, qualified for an 11-cent discount. See Docket No. R97-1, Direct Testimony of Thomas Sharkey On Behalf Of United States Postal Service, USPS-T-33, at 19.

the Commission,” all “without adequate scrutiny due to an abbreviated schedule and truncated procedures.” In support of this assertion, UPS attempts to divert the Commission’s attention away from the above-referenced, explicitly stated purposes of the experiment and infers too much from a cursory reading of other aspects of the Postal Service’s Request and testimony. Moreover, other than observe that an experimental proceeding under Rule 67 is not the same as an ordinary rate and classification proceeding, UPS fails to assert any basis for concluding that Rule 67 precludes the opportunity for “adequate” scrutiny of the proposal before the Commission in this docket.

Contrary to UPS’s unwarranted inference that the request to proceed under experimental procedures is an attempt to expedite rate relief for a few mailers, the Postal Service regards the Commission’s experimental classification rules as an important element of flexibility in carrying out its responsibilities under the Act. In a statement cited at page 3 of the UPS Motion, the Postal Service’s Request (at page 5) acknowledges that the intense competition to which Priority Mail is subject in the market for expedited delivery service makes proceeding under the experimental rules both logical and appropriate. The expedition in the rules allows for experiments to go from the drawing board (to the Board of Governors, the Commission, and the Governors) to the workroom floor in a shorter time period than that usually required for a typical omnibus rate proceeding. In light of the flexibility enjoyed by postal competitors, this ability to test competitive products relatively more quickly is crucial. Furthermore, assuming the success of the instant experiment, the Postal Service, as expressed in its request, foresees the establishment of permanent Priority Mail classifications and rates that provide “additional options of value to mailers” and that allow the Postal Service “to retain Priority Mail volumes in the face of increasing competition.” USPS Request at 5.

If the Postal Service were blinded by a desire to try to rush through the Commission some form of lasting rate relief to Priority Mail users, it would seem more effective in pursuit of such a goal to not propose the limitations on the number of participants as are being requested in Phase I of the experiment. Nor does it seem consistent with a mad dash to rate relief to endure an experimental proceeding, followed by a multi-year experiment, and then a proceeding requesting permanent classifications and rates. In this regard, we note that at page 3 of its Motion, UPS refers to the testimony of Postal Service witness Robert Kalenka<sup>5</sup> as evidence that application of Rule 67 is inappropriate. Witness Kalenka testifies that Priority Mail presort discounts will go far to helping the Postal Service maintain Priority Mail volume in the increasingly competitive market for expedited, 2-3 day delivery service.

USPS-T-3, at 7. There is no basis for concluding that this statement does anything other than (1) assume a positive experiment outcome and (2) express the long-term aspirations shared by the Postal Service and ADP Financial Information Services, Inc.<sup>6</sup>

Later, at page 4 of its Motion, UPS argues that the proposed experiment is “nothing more than an effort to negate the recent rate increases for Priority Mail for a few large users of that service . . . .” As evidence, UPS points to the testimony offered by Postal Service witness Scherer (USPS-T-1, at 6). There, after explaining the

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<sup>5</sup> See, Docket No. MC2001-1, Direct Testimony of Robert Kalenka On Behalf Of United States Postal Service, USPS-T-3.

<sup>6</sup> At page 7, n. 4, of its Motion, UPS again mischaracterizes witness Kalenka's testimony. This time, UPS asserts that witness Kalenka has issued a “veiled threat” to the Commission that ADP will “take its business elsewhere if a presort discount for Priority Mail is not resurrected.” Witness Kalenka makes no such threat and the Postal Service infers none when a valued customer merely acknowledges that the rates it must pay are an important consideration in selecting among shipping alternatives.

numerous principal purposes for reviving Priority Mail presort discounts,<sup>7</sup> witness Scherer offers some secondary observations. Beginning at USPS-T-1, page 6, line 13, he comments that a secondary benefit of the proposed experiment is that it will offer some measure of rate relief to those Priority Mail users who: (1) qualify for and participate in the experiment; (2) like all other Priority Mail users, have recently experienced significant rate increases, and (3) will have to incur some additional costs to participate in the experiment. Such secondary observations, coming after witness Scherer's detailed explanation of the principal purposes of the experiment (USPS-T-1, at 4-6), are not the driving force behind the request in this docket.

Being able to offer discounts that reflect actual cost savings is an important element of the experiment that will facilitate pursuit of the other important objectives, including more refined understanding of costs and market response. In this regard, witness Scherer's observation that discounts might serve as an important inducement for mailers to participate in the experiment by presorting is neither illogical nor inappropriate, especially since participation will cause them to incur costs that they would not otherwise incur.

The proposed experimental Priority Mail presort classifications are designed to include mailers with as few as 300 pieces or 500 pounds per mailing. Witness Scherer offers testimony that the Postal Service wants the experiment to include participants of diverse size. USPS-T-1, at 4. Reasonable minds can disagree about where the line might be drawn to distinguish "large" Priority Mail users from "small" ones. The terms are relatively ambiguous in the absence of any quantification. Excluding household mailers and focusing strictly on business mailers, it seems beyond dispute that there

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<sup>7</sup> See, Docket No. MC2001-1, USPS-T-1, page 4 (line 18) to page 6 (line 12).

are some mailers who might be considered "small" to some, but "large" to others.<sup>8</sup> Perhaps this ambiguity fuels the assertion at page 4 of the UPS Motion that the experiment is designed for the benefit of "large" Priority Mail users. Otherwise, no basis for it can be found on page 4 of witness Scherer's testimony or anywhere in any other document referenced by UPS.

At page 4, n.1, of its Motion, UPS observes that the Commission's Docket No. R2000-1 Opinion declined to recommend the adoption of an intervenor proposal for Priority Mail dropship discounts. It is not clear what was intended by UPS' reference to this aspect of the Commission's Opinion. However, it is worth emphasizing that the Commission acknowledged the Postal Service's ongoing review of the Priority Mail subclass and encouraged consideration of dropship discounts as a part of that process. PRC Op. R2000-1, Vol. 1 at 319. In this context, the proposed experiment demonstrates the Postal Service's commitment to explore options for improving the service.

### III. THE PROPOSAL SATISFIES THE CRITERIA OF RULE 67(b)

Under Rule 67(b), the Commission considers four criteria in determining whether the procedures for experimental cases may be used in a particular instance: the novelty of the proposed change; the magnitude of the proposed change; the ease or difficulty of generating relevant data; and the duration of the requested experiment. The Commission has indicated that:

[t]he rules applicable to requests involving experimental changes are designed for situations in which it is neither reasonably practicable nor economically efficient to prepare a request for a permanent change. The most obvious situation of this nature is one in which the Postal Service wishes to test whether a new service or

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<sup>8</sup> The inclusion of mailings of only 500 pounds allows for some participation of mailers of fewer than 300 pieces per mailing.

rate is operationally feasible, or attractive to postal patrons. In such a situation, prudent management might want to conduct a field test of the new service or rate in order to test operational feasibility and/or customer acceptance.

PRC Op. MC86-1, at 17-18. Below, the Postal Service will demonstrate how its request for experimental treatment satisfies each of these criteria and will refute assertions to the contrary by UPS.

#### A. The Experimental Proposal Is Sufficiently Novel To Warrant Approval

One of the threshold considerations for application of the Rule 67 experimental procedures is the novelty of the proposed change. 39 C.F.R. § 3001.67(b)(1). When it proposed its rules for experimental requests, the Commission stated:

[W]e are cognizant of the special responsibility imposed on the [Postal] Service by 39 U.S.C. § 403(a) to "plan, develop, promote, and provide adequate and efficient postal services." We think this statutory command carries with it an implication that innovative services responding to apparent public need are to be favored.

45 Fed. Reg. 48663 (July 21, 1980).

Citing variously to the Commission and a preferred dictionary at pages 2-3 of its Motion, UPS argues that Rule 67(b)(1) requires that an experimental proposal must be "innovative and unique," that it must be undertaken for the purpose of determining the efficacy of "something previously untried" or an "innovative act or procedure." UPS argues that "[t]he proposed work sharing discounts are not the type of proposal for which the rules . . . were intended." According to UPS, "[p]resort work sharing discounts are not new or innovative"<sup>9</sup> altogether and the proposed duration of the

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<sup>9</sup> The Concise Oxford Dictionary (8<sup>th</sup> ed. 1990) defines the verb "innovate" as "to bring in new methods, ideas, etc." and to "make changes." It seems beyond dispute that the experimental classification scheme proposed here is different from the permanent one abolished as a result of Docket No. R97-1. Within the Priority Mail universe, the proposed schedule reflects "changes" and "new" levels of presortation. Likewise, that same dictionary defines the noun "experiment" to mean "a procedure adopted on the chance of its succeeding, for testing a hypothesis etc. or to demonstrate (continued...)"



experiment "is longer than necessary for a presort discount proposal." UPS Motion at 2.

To the contrary, there is no basis on the face of Rule 67, in the rulemaking that led to its adoption, or in the Commission's subsequent interpretations, to infer that an experimental proposal must be so novel that it can bear absolutely no resemblance to any previous practice or classification. In an earlier docket, the Commission made clear that:

[t]he rule refers to elements such as novelty and proposed duration as "considerations" in determining the status of a filing; it does not establish a uniform standard for the degree of novelty or length of time entailed in an experiment. Instead, the rule envisions that determinations will be made on a case-by-case basis.

PRC Op. MC96-1, at 18. In that proceeding, the Postal Service sought the establishment of experimental classifications for small, barcoded First-Class Mail and Priority Mail parcels. It was suggested then that the experimental proposal lacked sufficient novelty because barcoding, in itself, was not a novel aspect of mail processing. The Commission rejected this simplistic notion, acknowledging that the Postal Service was attempting to explore the efficacy of extending an existing technology -- barcoding -- to a mailstream where it had yet been tested -- small First-Class Mail and Priority Mail parcels. *Id.* at 18.<sup>10</sup>

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<sup>9</sup>(...continued)

a known fact." Although it is not case here, it seems beyond dispute that experiments in other contexts are routinely conducted to replicate the results or validate the conclusions of previous examinations of a particular phenomenon. With all due respect to the authors of the American Heritage Dictionary of the English Language (3<sup>rd</sup> ed. 1992) cited by UPS at pages 2-3 of its Motion, an experiment is no less "experimental" by virtue of it not being the first examination of a particular hypothesis or because it seeks to plant a new variety of seed in soil where an earlier, different variety failed to take root.

<sup>10</sup> Otherwise, the Commission might never have considered experimental treatment for the weight-averaging portion of the Docket No. MC97-1 nonletter-size Business  
(continued...)

Alternatively, UPS argues, beginning at page 6 of its Motion, that any determination that the instant Priority Mail presort experimental proposal has any "novelty" is precluded by the fact that the Postal Service and the Commission have previously established and abolished a permanent Priority Mail presort classification. The implication of UPS's argument is that, when the original Priority Mail presort classification and rate were abolished, as a result of Docket No. R97-1, the Postal Service forever lost all right under any circumstances to seek application of the Commission's experimental rules to test the efficacy of any form of Priority Mail presortation.<sup>11</sup> Quite to the contrary, the Postal Service's experience with an earlier permanent Priority Mail presort classification and discount only serves to enhance the appropriateness of its request in the instant proceeding. The currently ongoing changes in Priority Mail processing identified by witness Levine (USPS-T-2, at 2) reinforce the value of employing the experimental procedures to permit a measured and deliberate examination of the viability of the current proposal in a controlled setting. Should the results of the proposed experiment prove sufficiently promising, the Postal Service can then consider formulating a request for permanent classifications and rates. On the other hand, should the results of the experiment suggest that the concept of Priority Mail presort still is not ripe, then the experimental procedures also will have served an equally valuable purpose. They will have allowed for the testing of important

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<sup>10</sup>(...continued)

Reply Mail experiment, given the testimony in that proceeding that the weight-averaging counting method had been employed for over a decade. See PRC Op. MC97-1, at 5.

<sup>11</sup> Applying UPS's approach to postal rate and classification experimentation, the Commission might have required in Docket No. MC2000-2 that the Postal Service pursue Mailing Online only as a permanent service because of its previous experience with E-COM, an earlier generation, hybrid electronic/hard-copy letter transmission and delivery service.

hypotheses without first having to make permanent Domestic Mail Classification Schedule changes that might otherwise later require un-doing.

**B. The Magnitude of The Proposed Changes Is Modest And Has Been Reasonably Estimated**

The second threshold consideration for application of the Rule 67 experimental procedures is the magnitude of the proposed change, including its effect on postal costs, postal revenues, mailing costs, and practices of users of the mails, and persons or firms offering services competitive with or alternative to the service offerings of the Postal Service. 39 C.F.R. § 3001.67(b)(2). At pages 8-10 of its Motion, UPS argues that the magnitude of the proposed changes cannot be reasonably determined on the basis of witness Scherer's testimony. UPS, however, fails to demonstrate that the data filed by the Postal Service is insufficient or inappropriate for the purpose of analyzing the efficacy of the proposed experiment.

Witness Scherer's testimony (USPS-T-1, at 10-13) estimates the volume and financial impacts of implementing the first phase of the proposed experiment. At pages 15-16, he estimates the impacts on postal revenues, postal costs, mailer costs, and competition. Given the limitations on what can be known on the basis of available data, his estimates are more than sufficient to meet the standard for allowing the Postal Service's request to be considered under Rule 67.

At page 8 of its Motion, UPS summarily dismisses witness Scherer's testimony as "not . . . reasonable." At page 9, UPS asserts that market research "could be done (and should have been done)." UPS further claims to find it "surprising" that the Postal Service did not conduct market research in advance of the experiment.<sup>12</sup>

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<sup>12</sup> UPS, in fact, is "surprised" that the Docket No. MC2001-1 experimental data collection plan would include market research, as did the experimental data collection plans approved by the Commission in Docket Nos. MC97-1 and MC96-1, and the plan  
(continued...)

Furthermore, on page 9 of its Motion, UPS characterizes statements attributed to the Postmaster General in press reports regarding the impact of declining revenue per piece on postal finances. UPS argues that:

[o]ne possible factor contributing to this development is a proliferation of worksharing discounts based on overly optimistic cost avoidance estimates and overly high passthroughs. Under these circumstances, discounts should not be implemented without careful and full review of their cost bases.

UPS Motion at 9. None of these contentions undermines the basis for proceeding under the experimental rules. If UPS considers the Docket No. MC2001-1 cost avoidance estimates of witness Levine (USPS-T-2) to be "overly optimistic," UPS has every opportunity right now to explore that hypothesis through the procedures available under Rule 67. If UPS wishes to utilize those same procedures to attempt to demonstrate that witness Scherer's 60 percent passthroughs are "overly high," it certainly has the chance right now to do so. UPS fails to articulate how proceedings under Rule 67 will deny it an opportunity for a "careful and full" review of the experimental proposal submitted by the Postal Service.

C. The Proposal To Develop More Refined Cost Data And Conduct Market Research As Part Of The Experiment Follows Commission Precedent

The third threshold consideration for application of the Rule 67 experimental procedures is the ease or difficulty of generating or gathering data with respect to the proposed change. 39 C.F.R. § 3001.67(b)(3). At pages 10-11 of its Motion, UPS argues that the Postal Service should have provided more extensive cost data than that presented in the testimony of witness Levine (USPS-T-2). UPS declares that:

the data to support a proposal for permanent Priority Mail discounts is certainly not difficult to obtain. . . . The Postal Service has routinely proposed new, or changed existing, presort discounts based on market surveys or using data from its

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<sup>12</sup>(...continued)  
submitted in MC86-1.

established data systems, without the need for experimental implementation of actual discounts.

UPS Motion at 10. What UPS seems to be arguing here is that since it is not outside the realm of possibility that some set of circumstances might have permitted the Postal Service to consider filing a request for permanent Priority Mail presort discounts, it should not be allowed to pursue an experiment instead.

The fact that the Postal Service has considerable experience in generating data on presort cost savings and likely mailer response in the absence of experimental rate changes does not persuasively militate against the experimental approach here. Generating such data is always complicated, time-consuming and costly. Developing market research similarly is not costless. In this regard, the Postal Service considers that it has amply demonstrated why the Commission's experimental procedures are appropriate under the circumstances of this case.

Beginning at page 6 of its Motion, UPS characterizes the history of the Priority Mail presort discounts that were established in Docket No. R90-1, but abolished in Docket No. R97-1. In this regard, UPS's summary of the Docket No. R97-1 grounds for abolition of the original Priority Mail presort classifications focuses on the lack of market response to those service offerings.<sup>13</sup> However, UPS fails to acknowledge the other compelling reason offered on the record and relied upon by the Commission in Docket No. R97-1: the (then) impending implementation of the PMPC processing and distribution network which was to have the effect of diminishing the value of Priority Mail worksharing. See, PRC Op. R97-1, Vol. 1 at 355; and Docket No. MC2001-1, USPS-T-1, at 5. In fact, this additional consideration highlights the difference between the

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<sup>13</sup> A single discount for four different levels of Priority Mail presortation proved unattractive in the past. One goal of the proposed experiment is to determine whether flexibility in choice of different levels of presortation is more attractive to mailers.

circumstances surrounding elimination of the original Priority Mail presort classification and the current operational changes which would appear to restore a favorable environment for capturing presort savings.

UPS further argues that:

fundamental aspects of both the prior discount and the proposed discounts are the same. Thus the cost savings calculations based on the prior experience should be available and helpful here.

UPS Motion at 8. On the contrary, the cost data underlying the then-existing Priority Mail presort discount were not sufficiently disaggregated to provide reliable estimates for each of the separate worksharing levels then in effect (5-digit, 3-digit, sacks and bundles). Accordingly, even if the proposed experimental presort options were the same as those abolished in Docket No. R97-1, the cost savings calculation underlying the "one-size-fits-all" 11-cent Priority Mail presort discount would be of little value in estimating current or future cost avoidances. The old data have even less usefulness and applicability in the instant case, where a whole new set of flexible presort options is proposed. In addition, the currently ongoing conversion from the PMPC network, furthermore, can be expected to have an impact on future Priority Mail processing costs that makes reliance on what was known several omnibus rate proceedings ago ill-suited for use as a basis for modeling costs of the rate categories proposed in the experiment.

Because of the recent reversion of the PMPC network to postal control, the Postal Service has only recently extended the reach of its Management Operating Data System (MODS) to collect data regarding PMPC operations. PMPCs have different sort schemes than other postal facilities which are covered by MODS. It is expected that there will be some variety in the manner in which the PMPCs are run. Accordingly, the Postal Service considers it imprudent to merely assume that the productivities of these other facilities -- which are used for the purposes of developing witness Levine's

(USPS-T-2) cost models -- apply to PMPC operations. Over time, the Postal Service expects to accumulate PMPC operations and cost data and develop reliable PMPC productivity estimates and to be able to integrate them into a more reliable estimate of Priority Mail processing costs. Under the current circumstances, the Postal Service considers that witness Levine has developed cost estimates which are suitable for the initiation of an experiment designed to collect more reliable data in the currently evolving Priority Mail processing environment.

In formulating Rule 67, the Commission made clear that:

by virtually eliminating the normal data filing requirements as an issue in . . . [experimental] cases, we have taken proper cognizance of the difficulties the Postal Service may encounter in presenting a request for an experimental classification change.

PRC Order No. 363, at 13 (December 12, 1980). The Postal Service considers that it has amply demonstrated why the Commission's experimental procedures are appropriate under the circumstances of the current case.

At page 7 of its Motion, UPS contrasts the Docket No. R90-1 Priority Mail presort request and the current experimental proposal. The former was supported by market research filed concurrently with the request and the latter includes a plan for market research after the experiment is initiated. UPS's argument, however, only highlights the reasonableness of the Postal Service's plan to obtain information through experience with the proposed classifications. Hindsight shows that the prospective market research relied upon in Docket No. R90-1 to propose and recommend the Priority Mail classification imperfectly predicted market responses in light of the operational and market conditions affecting Priority Mail. In the likewise unique environment affecting Priority Mail today, the Postal Service is simply choosing to develop a basis for pursuing permanent change through practical experience, which may prove to be more reliable.

Other than to imply that the Postal Service could have conducted some form of market research in advance of Docket No. MC2001-1, UPS offers no basis for the Commission to reject the experimental approach because market research was not conducted in advance of the request. Other experiments approved by the Commission have included the execution of market research as an essential element after the experimental classifications, rates and/or fees have been implemented. See PRC Op. MC97-1, at 20-21; PRC Op. MC96-1, at 11. The Commission, furthermore, has acknowledged that “a marketplace experiment is an ordinary tool for firms to test customer reaction to changes in product offerings” and it has ruled that the fact that market research could be performed outside of the context of a Rule 67 experiment does not invalidate a proposal to incorporate market research as part of such an experiment. Docket No. MC86-1, PRC Order No. 655, at 11 (December 19, 1985).

D. The Proposed Duration Of The Experiment Does Not Invalidate The Request

UPS argues that “the proposed experiment is longer than is necessary” for a presort discount proposal and that:

[t]o apply the abbreviated schedule and truncated procedures allowed by the experimental rules would result in less scrutiny of the level of the requested discounts than is appropriate, especially since the Postal Service requests that the discounts remain in effect for three years.

UPS Motion at 2. Apparently, UPS considers that an experiment of some length shorter than three years is appropriate for presort discount proposals.

At page 11 of its Motion, UPS argues that “[t]here are good reasons” to reject three-year experiments. As the first reason, UPS asserts that the risk of the potential drain on revenues is greater, the longer the experiment. However, UPS makes no mention of the potential postal mail processing cost savings associated with mailer worksharing which can be expected to offset any revenue loss, as is presumed to be



the case with presort discounts. Nor does UPS consider the degree to which conservative cost avoidance passthroughs, such as those proposed by witness Scherer (USPS-T-1, at 8), serve to guard against the risk of revenue leakage.

Secondly, at page 11, UPS claims that "the longer the experiment, the more likely the relevant costs will change substantially, thereby undermining the usefulness of the experiment."<sup>14</sup>

In this regard, UPS argues that "long experiments are likely to span two different rate cycles." The history of the application of Rule 67 shows that "short" experiments can result in the implementation of experimental rates during one general rate cycle that carry over into the next general rate cycle.<sup>15</sup>

The relationship of the timing of a particular experiment and the preceding and subsequent omnibus rate cases is a matter which, if it has any relevance or is subject to any resolution, can be addressed during the course of any particular experiment. The fact that it is impossible to know now or even soon whether the experimental rates proposed in the instant proceeding will outlast the rates which will emerge from the next omnibus rate proceeding is no reason to forgo examination of the experimental request presently before the Commission. The parties and the Commission certainly have the tools to propose and recommend appropriate adjustments to experimental rates within

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<sup>14</sup> UPS cannot say to what degree relevant costs might change; nor can it say how much risk is there that any such change could be substantial. Nor does UPS assert that under Rule 67, the parties would be prevented from reaching an agreement or asking the Commission to impose some particular obligation on the Postal Service to report cost data at some appropriate interval during the course of the experiment.

<sup>15</sup> See, Docket No. MC97-1, where the experimental nonletter-size Business Reply Mail classifications and fees were implemented before Docket No. R97-1 was completed, but not changed as a result of that proceeding.

the context of the upcoming general rate case, if that should be warranted, based on the record in that case.

Finally, at page 12 of its Motion, UPS points to the risk of an overlap between the litigation of Docket No. MC2001-1 and the next omnibus rate case and expresses its concern that this overlap could strain the resources of the Commission and the participants. The Postal Service is more sympathetic to such concerns than it is capable of expressing here, but submits that the participants will have every opportunity to mitigate that potential burden by virtue of the manner in which they, themselves, choose to have the instant proceeding resolved. The Postal Service stands prepared to work with all parties to explore all reasonable avenues of achieving a swift and fair resolution of Docket No. MC2001-1.

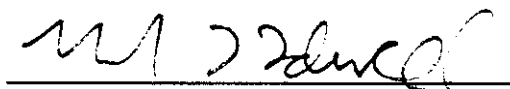
UPS has failed to establish any basis for not conducting Docket No. MC2001-1 under Rule 67. Accordingly, for the reasons stated above, the UPS Motion should be denied.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

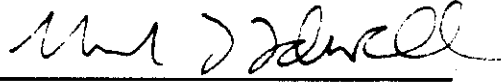
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April 10, 2001

## CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all participants of record in this proceeding in accordance with section 12 of the Rules of Practice.

A handwritten signature in black ink, appearing to read "Michael T. Tidwell", written over a horizontal line.

Michael T. Tidwell

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April 10, 2001